

MINUTES
RUSH COUNTY AREA PLAN COMMISSION
Tuesday, August 27, 2013
7:30 PM

ROLL CALL:

Present were Brad Berkemeier, Joann Mull, Ruth Geise, Marvin Rees, Marsha Dyer, Mike Holzback, Mark Bacon, Marvin Hedrick, David Rogier, Gilda Caviness and Kevin Tolloty. Absent was Ramona Turner and Jeff Slaton.

Tolloty stated: Mr. Chairman, you have a quorum.

MINUTES:

Motion by **Rees** to approve the minutes of the July 22, 2013 Special Meeting, amended to note "Absent was Marvin Hedrick", seconded by **Mull**. All voted AYE.

Motion by **Mull** to approve the minutes of the July 23, 2013 Meeting, seconded by **Berkemeier**. All voted AYE.

Motion by **Mull** to approve the minutes of the July 29, 2013 Commissioners Meeting, seconded by **Geise**. All voted AYE.

Motion by **Hedrick** to approve the minutes of the August 14, 2013 Special Hearing seconded by **Berkemeier**. All voted AYE.

CERTIFICATES OF APPRECIATION:

Holzback stated that Certificates of Appreciation for Kate Meyer and Diana Todd were ready for presentation but that both had prior commitments and that therefore the Certificates would be mailed to Executive Director Katherine Meyer and Administrative Assistant Diana Todd.

SUBDIVISIONS: Primary Plat Approval

1. Lucille Waggoner, 1621 E Gings Road, Rushville, Gary & Karla Ralston, agents, are requesting a single lot subdivision of 3.353 acres from a parent tract of 41.96 acres, Section 9, T14N, R10E, Union Twp., zoned A-1.

MOTION by **Rees** to grant Primary Plat approval. Seconded by **Berkemeier**. All voted AYE.

2. John & Sarah Springman, 5236 W 900 N, Carthage, are requesting a two lot subdivision of 31.51 and 27.04 acres from a parent tract of 58.55 acres, Section 17, T15N, R9E, Ripley Twp., zoned A-3.

MOTION by **Hedrick** to grant Primary Plat approval. Seconded by **Geise**. All voted AYE.

MOTION by **Mull** to grant Primary RePlat approval. Seconded by **Geise**. All voted AYE.

3. Berean Group, LLC, as agent for Vision Investors, LLC, is requesting a four lot subdivision of 4.492 acres, 0.381 acres, 1.028 acres and 1.448 acres from a parent tract of 7.349 acres, Section 30, T14N, R10E, Rushville Twp., zoned C-1.

Tolloty reported that the proposed Primary Plat is zoned C-1 and that a small part of the 0.381 acre tract is zoned R-3.

Berkemeier asked about the overlapping zoning

Hedrick expressed concern regarding drainage

Mull inquired about the proposed Waiver that would enable the client to proceed with the building

Bacon asked what is the urgency on the petition

Rees stated that the Drainage Board had already approved drainage for the Secondary Plat lots

Berkemeier noted that in the City of Rushville Subdivision Control Ordinance that construction plans get approved at the Primary Plat stage; if Secondary Plat approval is given on all four lots, then the City would lose control over proposed development

Tolloty stated that the developer could come back for Secondary Plat approval in 30 days

Rogier confirmed that Primary Plat approval is good for 6 months

Mull asked would they have to reapply for Primary Plat approval

Holzback stated that we could limit the Waiver to just the two lots

Bacon asked are we setting a precedent by Waiving the 30 day window

Mull stated good question

Caviness said it is not appropriate to use the Waiver unless it is unique and not liable to reoccur

Bacon said people build all winter long, a petitioner could say "you gave a waiver to someone else"

Tolloty said because of the office turn-over, there is no record of how the 6 weeks were lost

Rogier said from June 13 to August 2, there was no action on the petition, the Plan

Commission could grant the Waiver on a hardship basis

Holzback asked if the audience had any questions or comments

John Owen of the Blue Ribbon Estates Home Owners Association stated that there is a drainage problem in the area, that the tile from the retention pond puts water into their area

Rees said that there is a 24 inch pipe which runs from the retention pond

Rogier noted that the surface drainage from the 0.381 acre parcel and 1.448 acre parcel goes into the ditch along the west side of State Road 3

Rees said that the Health Department would have control over mosquitoes

Attorney Ronald Wilson confirmed that the surface drainage goes towards State Road 3

Valerie McGowan of the Blue Ribbon Estates Home Owners Association said that their main concern is the drainage

John Owen of the Blue Ribbon Estates Home Owners Association said that they are not against the project, but that a wet year might cause problems

Hedrick stated that drainage will be addressed

Holzback stated that the Drainage Board dealt only with this project

Rogier suggested that the Plan Commission could grant Primary Plat approval to the entire subdivision but specify additional conditions on lots that are not given Secondary Plat approval in order to work out the drainage issue

Hedrick stated "I make a **MOTION** to that effect"

Rees said "I second the **MOTION**"

Holzback said we need to get back to the audience, any more questions or comments ? None.

Rogier was asked to restate the motion saying "the proposed **MOTION** is to grant Primary Plat approval to the entire subdivision with a stipulation that a drainage plan will be developed for the lots that are not given Secondary Plat approval and, that after 6 months Primary Plat Approval would expire unless the petitioner asked for a 6 month extension" All voted AYE.

SUBDIVISIONS: Secondary Plat Approval

1. Doyle & Helen Doris Hurst, 9289 W SR 244, Waldron, is requesting a single lot subdivision of 1.650 acres from a parent tract of 72.798 acres, Section 15, T12N, R8E, Orange Twp., zoned A-3.

MOTION by **Geise** to grant Secondary Plat approval. Seconded by **Mull**. All voted AYE.

2. George Beckner & Carolyn Wilson, 5050 E 200 S, Rushville, are requesting a single lot subdivision of 0.280 acres from a parent tract of 37.068 acres, Section 7, T13N, R11E, Noble Twp., zoned A-3.

MOTION by **Bacon** to grant Secondary Plat approval. Seconded by **Geise**. All voted AYE.

3. Don Miller, 8100 S 850 W, Waldron, is requesting a single lot subdivision of 2.185 acres from a parent tract of 79.743 acres, Section 14, T12N, R8E, Orange Twp., Zoned A-3.

MOTION by **Rees** to grant Secondary Plat approval. Seconded by **Mull**. All voted AYE.

4. Don Miller, 8514 S 850 W, Waldron, is requesting a single lot subdivision of 2.228 acres from a parent tract of 80 acres, Section 14, T12N, R8E, Orange Twp., Zoned A-3.

MOTION by **Mull** to grant Secondary Plat approval. Seconded by **Bacon**. All voted AYE.

5. Don Miller, 8925 S 750 W, Manilla, is requesting a single lot subdivision of 10.094 acres from a parent tract of 90 acres, Section 13, T12N, R8E, Orange Twp., Zoned A-3.

MOTION by **Geise** to grant Secondary Plat approval. Seconded by **Hedrick**. All voted AYE.

6. Don Miller, 8991 W SR 244, Waldron, is requesting a single lot subdivision of 2.092 acres from a parent tract of 80 acres, Section 14, T12N, R8E, Orange Twp., Zoned A-3.

MOTION by **Hedrick** to grant Secondary Plat approval. Seconded by **Bacon**. All voted AYE.

7. Berean Group, LLC, as agent for Vision Investors, LLC, is requesting a two lot subdivision of 0.381 acres, and 1.448 acres from a parent tract of 7.349 acres, Section 30, T14N, R10E, Rushville Twp., zoned C-1.

Tolloty stated that the 0.381 acre lot will be combined with the 1.448 acre Commercial lot 1B to form a 1.829 acre lot in accord with **page 16 of Rushville Subdivision Control Ordinance, item g. of SUBDIVISION, EXEMPT** (consolidation of more than one lot into a single lot)

Mull stated that monuments and markers must be in place, that there needs to be photos of the installed monuments and markers, and that all adjoining property owners must be notified by certified mail

Tolloty said that everything is in the case file; all 14 monuments and markers have been installed; all adjoining property owners have been notified by Certified Mail, all green cards have been returned by the post office; proof of publication of the newspaper legal ad is in the case file; photos of the monuments and markers are in the APC office but have not yet been pasted into the Powerpoint slides

Rogier stated that the Secondary Plat request is limited to the 0.381 acre lot and the 1.448 acre lot
Attorney Ronald Wilson confirmed that the Secondary Plat request is limited to those two lots
Berkemeier asked if the **Waiver** is limited to those two lots

Rogier confirmed that the **Waiver** request is for the purpose of Secondary Plat approval on the two lots

Caviness said the subdivider could ask the APC and City Council to rezone the R-3 to C-1 While looking at the Subdivision plat drawing, there was extensive discussion regarding the Secondary Plat; **Attorney Ronald Wilson** stated that his client was asking for Secondary Plat approval on the two tracts, the 0.381 acre and the 1.448 acre lot

Caviness noted that those two lots would then get combined together to yield a 1.829 acre lot **Caviness and Rogier** observed that the Plan Commission would lose control of the drainage issue if all four lots were given Secondary Plat approval

Rees stated that Farm Credit could not get a Building Permit from the APC office without Secondary Plat approval

Berkemeier clarified the issue by noting the stipulation placed on Primary Plat approval

Rogier said that the **Waiver** motion would waive the 30 day window between Primary and Secondary Plat approval

Berkemeier made a **MOTION** to grant the 30 day **Waiver** between Primary and Secondary Plat

Holzback stated that this would be to grant a **WAIVER** as presented (attached to minutes)

Geise seconded the **Waiver** motion; all voted AYE.

Berkemeier made a **MOTION** to grant Secondary Plat approval to the 0.381 acre and the 1.448 acre lot with the same Primary Plat stipulations regarding drainage issues to be addressed. Seconded by **Hedrick**. All voted AYE.

Rees made a **MOTION** to close the hearing. Seconded by **Mull**. All voted AYE.

REZONES: None

AMENDMENT HEARING: None

OLD BUSINESS:

Rogier reported that all 3 jurisdictions had adopted the Wind Energy Conversion Systems amendments; the County Commissioners on July 15; the Carthage Town Board on July 9 and the Glenwood Town Board on August 5 which was attended by **Turner, Hedrick, Caviness & Rogier**. **Rees, Mull, Hedrick, Tolloty** and **Caviness** discussed the status of the chicken ordinance.

NEW BUSINESS: None

AUDIENCE PARTICIPATION: None

REPORTS:

Plan Consultant

Attorney – **Caviness** briefed the Plan Commission regarding the Adkins lawsuit against the Board of Zoning Appeals; **Caviness** will defend; Judge Hill of the Circuit Court will rule.

Interim Director – **Rogier** reported that having had the opportunity to work with Kevin for about two weeks that he can report that Kevin is very good at multi-tasking, that Kevin has excellent computer skills such as PowerPoint and GIS maps used to illustrate the petitioners requests tonight and as exemplified by Kevin's ability to upload tonight's agenda onto the county website and that therefore Rogier believes that the Area Plan Commission made a very good decision to bring Kevin on board as your Director.

Executive Director – **Tolloty** reported that this has been a fun first few weeks; that he is getting organized; that the Help Wanted ad for part-time help drew a very large response; that he is interviewing a couple of really qualified candidates and, that he plans to hire an Assistant this week.

ADJOURN: **MOTION** by **Rees**. Seconded by **Mull**. All voted AYE.

**MINUTES
APC
August 27, 2013
7:30 PM
Page 5**

Date of Approval _____

Michael Holzback, Chairman

**Kevin Tolloty, AICP
Executive Director**